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Served: July 10, 2002



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

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**Joint Application of American Airlines, Inc. and Swiss International Air Lines Ltd.  
for Approval of and Antitrust Immunity for Alliance Agreement  
under 49 U.S.C. §§ 41308 and 41309 (Docket OST-2002-12688) - 5**

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**NOTICE PROVIDING ACCESS TO DOCUMENTS**

On June 28, 2002, American Airlines and its affiliates<sup>1</sup> and Swiss International Air Lines Ltd. filed a joint application requesting approval of and antitrust immunity for (1) a cooperative agreement (Exhibit JA-1), and (2) all agreements among the applicants that implement any part of the cooperative agreement or are entered into by the applicants under the cooperative agreement (hereafter the "Alliance Agreement"). On June 28, the applicants filed a joint Motion under 14 C.F.R. 302.12 (Rule 12) of our regulations seeking confidential treatment for supporting documents and information. On July 2, American Airlines, Inc. filed a supplementary Motion under 14 C.F.R. 302.12 (Rule 12) of our regulations seeking confidential treatment for additional documents and information. Both Motions state that this material is proprietary, commercially sensitive, and confidential in nature which qualifies for being withheld from public disclosure. The applicants ask that access to this material be limited to counsel and outside experts for interested parties.<sup>2</sup>

In order to afford interested parties prompt access to the documents under conditions agreed to by the applicants and imposed by the Department under similar recent circumstances,<sup>3</sup> we will grant immediate interim access to all documents covered by the Rule 12 Motions to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance. Moreover, consistent with earlier determinations, Parties will be permitted, at the Dockets facility, to make copies of the exhibits for use by persons who have filed confidentiality affidavits.<sup>4</sup> We also find it appropriate to grant interim access to any subsequent materials that may be filed in this case under a Rule 12 Motion to counsel and outside experts for interested parties who file appropriate affidavits with the Department in advance, unless the party filing the Motion objects.

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<sup>1</sup> Specifically, TWA Airlines LLC; American Eagle Airlines, Inc.; and Executive Airlines, Inc. d/b/a American Eagle.

<sup>2</sup> See Joint Motions at 1.

<sup>3</sup> See Notices in Dockets OST-2002-11842 dated March 21, 2002 and OST 2002-12063 dated April 19, 2002.

<sup>4</sup> See Notice dated September 7, 2001, Docket OST-2001-10429 (Delta-Air France-Alitalia-CSA request for approval of and antitrust immunity for Alliance Agreements); and see Notice dated September 11, 2001, Docket OST-2001-10387 (American Airlines-British Airways request for approval of and antitrust immunity for an Alliance Agreement).

We expect all affidavits to state, at a minimum, that (1) the affiant is counsel for an interested party or an outside independent expert providing services to such a party; (2) the affiant will use the information only for the purpose of participating in this proceeding; and (3) the affiant will disclose such information only to other persons who have filed a valid affidavit in Docket OST-2002-12688. Affiants and interested parties must understand and agree that any pleading or other filing that includes or discusses information contained in the covered documents must itself be accompanied by a Rule 12 Motion requesting confidential treatment. Affidavits must be filed in Docket OST-2002-12688 with the Department of Transportation, Dockets, Room PL-401, 400 Seventh Street, S.W., Washington, D.C., 20590.

Affiants having filed affidavits may examine the documents at the Department of Transportation at the Docket location. Affiants must present a stamped copy of the affidavit filed with the Department of Transportation before examination of the documents. Immediately after the completion of any judicial review of our final decision in this docket or the expiration of the 60-day period within which a person may petition for judicial review, all persons who have filed confidentiality affidavits in this proceeding are hereby directed to file a further affidavit stating that all copies of the applicants' confidential materials have been destroyed or returned to the applicants.

Finally, when we have determined that the record of this case is complete, we will announce an appropriate procedural schedule. We shall serve this notice on all persons on the service list for this docket.

By:

Dated: July 10, 2002

**READ C. VAN DE WATER**  
Assistant Secretary for Aviation  
and International Affairs

(SEAL)

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